

MANDATE

S.D.N.Y.*

19-cv-11166(LGS)

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 13th day of December, two thousand twenty-two.

Present:

Debra Ann Livingston,
Chief Judge,
Raymond J. Lohier, Jr.,
Michael H. Park,
Circuit Judges.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 12/13/2022

Himelda Mendez, and on behalf of all other persons similarly situated,

Plaintiff-Appellant,

v.

20-2160

Coach Services, Inc.,

Defendant-Appellee.

Emanuel Delacruz, on behalf of himself and all other persons similarly situated,

Plaintiff - Appellant,

v.

20-2521

Jamba Juice Company,

Defendant - Appellee.

* This order pertains to actions docketed in the Southern District of New York under 19-cv-11856 (Woods, J.); 19-cv-10321 (Woods, J.); 19-cv-9929 (Vyskocil, J.); 19-cv-9932 (Abrams, J.); 19-cv-10172 (Schofield, J.); 19-cv-11770 (Schofield, J.); 19-cv-11166 (Schofield, J.); 19-cv-10958 (Schofield, J.); 19-cv-10329 (Schofield, J.); 19-cv-9888 (Schofield, J.); 19-cv-9907 (Schofield, J.); 19-cv-11228 (Schofield, J.).

MANDATE ISSUED ON 12/13/2022

Steven Matzura, on behalf of himself and all other persons similarly situated,

Plaintiff - Appellant,

v.

20-2574

Red Lobster Hospitality LLC,

Defendant - Appellee.

Braulio Thorne, on behalf of himself and all other persons similarly situated,

Plaintiff-Appellant,

v.

20-2453

Boston Market Corporation,

Defendant-Appellee.

Yovanny Dominguez, and on behalf of all other persons similarly situated,

Plaintiff - Appellant,

v.

20-2498

Taco Bell Corp.,

Defendant - Appellee.

Victor Lopez, and on behalf of all other persons similarly situated,

Plaintiff - Appellant,

v.

20-2512

Williams-Sonoma Stores, Inc.,

Defendant - Appellee.

Himelda Mendez, and on behalf of all other persons similarly situated,

Plaintiff - Appellant,

v.

20-2516

BG Retail, LLC, DBA Famous Footwear,

Defendant - Appellee.

Yony Sosa, on behalf of himself and all other persons similarly situated,

Plaintiff - Appellant,

v.

20-2544

Zara USA, Inc.,

Defendant - Appellee.

James Murphy, on behalf of himself and all others similarly situated,

Plaintiff-Appellant,

v.

20-2562

Little Caesar Enterprises, Inc.,

Defendant-Appellee.

Victor Lopez, and on behalf of all other persons similarly situated,

Plaintiff - Appellant,

v.

20-2563

Darden Restaurants, Inc., doing business as Longhorn Steakhouse,

Defendant - Appellee.

Victor Lopez,

Plaintiff - Appellant,

v.

20-2569

Build-A-Bear Workshop, Inc.,

Defendant - Appellee.

Marcos Calcano, On Behalf of Himself and All Other Persons Similarly Situated,

Plaintiff - Appellant,

v.

20-2642

Vineyard Vines, LLC,

Defendant - Appellee.

The appeals docketed under 2d Cir. 20-2160, 20-2521, 20-2574, 20-2453, 20-2498, 20-2512, 20-2516, 20-2544, 20-2562, 20-2563, 20-2569, and 20-2642 are consolidated for purposes of this order, with 2d Cir. 20-2160 serving as the lead appeal.

Appellants in these twelve appeals move to withdraw the appeals and for the Court to remand their actions to the district court for unspecified “further proceedings.” Upon due consideration, it is hereby ORDERED that the motions to withdraw the appeals are GRANTED. *See* Fed. R. App. P. 42(b).


It is further ORDERED that the motions for remand are DENIED in the appeals docketed under 20-2160, 20-2521, and 20-2574 because Appellants do not explain, and the record does not suggest, what “further proceedings” might be warranted in those actions.

It is further ORDERED that the motions for remand are GRANTED in the appeals docketed under 20-2453, 20-2498, 20-2512, 20-2516, 20-2544, 20-2562, 20-2563, 20-2569, and 20-2642. In the remanded cases, we direct the district court to determine, in the first instance, whether any further

proceedings are warranted, including vacatur of the merits-based judgments and dismissal of the actions for lack of standing in light of our decision in *Calcano v. Swarovski North America Ltd.*, 36 F.4th 68 (2d Cir. 2022). See, e.g., *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 110 (1998); *Raines v. Byrd*, 521 U.S. 811, 813–14 (1997); *Stagg, P.C. v. U.S. Dep't of State*, 983 F.3d 589, 609 (2d Cir. 2020).

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court


Catherine O'Hagan Wolfe



A True Copy

Catherine O'Hagan Wolfe, Clerk

5

United States Court of Appeals, Second Circuit


Catherine O'Hagan Wolfe

